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8   **IN THE UNITED STATES DISTRICT COURT**

9   **FOR THE EASTERN DISTRICT OF CALIFORNIA**

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11   DEANNA ROBBINS,   No. 2:21-CV-0621-KJM-DMC

12   Plaintiff,

13   v.   ORDER

14   MERIT SYSTEMS PROTECTION
      BOARD,
15
                Defendant.
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18   Plaintiff, who is proceeding pro se, brings this civil action seeking judicial review

19   of a final decision of the United States Equal Employment Opportunity Commission (EEOC).

20   The Court is required to screen complaints brought by litigants who have been

21   granted leave to proceed in forma pauperis. See 28 U.S.C. § 1915(e)(2). Under this screening

22   provision, the court must dismiss a complaint or portion thereof if it: (1) is frivolous or malicious;

23   (2) fails to state a claim upon which relief can be granted; or (3) seeks monetary relief from a

24   defendant who is immune from such relief. See 28 U.S.C. § 1915(e)(2)(A), (B). Moreover,

25   pursuant to Federal Rule of Civil Procedure 12(h)(3), this court must dismiss an action if the court

26   determines that it lacks subject matter jurisdiction. Because plaintiff has been granted leave to

27   proceed in forma pauperis, the court will screen the complaint pursuant to § 1915(e)(2). Pursuant

28   to Rule 12(h)(3), the court will also consider as a threshold matter whether it has subject-matter

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1   jurisdiction.

2   In this case, Plaintiff's action is for judicial review of the EEOC's final decision

3   denying a petition for review challenging the Merit Systems Protection Board's procedural

4   dismissal of Plaintiff's appeal as untimely.

5   The Court concludes that it has subject matter jurisdiction and that the complaint is

6   appropriate for service by the United States Marshal without pre-payment of costs. If Plaintiff

7   desires service of process by the United States Marshal without pre-payment of costs, Plaintiff

8   must comply with the requirements outlined below. Plaintiff is warned that failure to comply

9   with this order, or otherwise effect service pursuant to Federal Rule of Civil Procedure 4, may

10   result in dismissal of the action for lack of prosecution and failure to comply with court rules and

11   orders. See Local Rule 110.

12   Accordingly, IT IS HEREBY ORDERED that:

13   1.   The Clerk of the Court shall issue a summons in a civil case, the

14   undersigned's new case documents, and an order setting this matter for an initial scheduling

15   conference;

16   2.   The Clerk of the Court shall send Plaintiff the summons, one USM-285

17   forms, and a copy of the complaint;

18   3.   Within 15 days from the date of this order, Plaintiff shall complete the

19   summons by indicating the addresses of the named Defendants and shall submit to the United

20   States Marshal at the address indicated below the following documents:

21   a.   The completed summons;

22   b.   One completed USM-285 form for each named Defendant;

23   c.   Two copies of the complaint; and

24   d.   One copy of the court's initial scheduling conference order issued

25   herewith;

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1   4.   Within 20 days of the date of this order, Plaintiff shall file a notice

2 indicating that the documents described above have been submitted to the United States Marshal,

3 or a notice that Plaintiff intends to serve the summons and complaint without assistance from the

4 United States Marshal;

5   5.   If Plaintiff seeks the assistance of the United States Marshal, the United

6 States Marshal is directed to serve all process without pre-payment of costs not later than 60 days

7 from the date of this order, such service of process to be completed by serving a copy of the

8 summons, complaint, and initial scheduling conference order on the Defendants at the addresses

9 provided by Plaintiff; and

10   6.   The Clerk of the Court is directed to serve a copy of this order on the

11 United States Marshal at 501 "I" Street, Sacramento, CA, 95814.

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13 Dated: April 13, 2021

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    DENNIS M. COTA

15 UNITED STATES MAGISTRATE JUDGE

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